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SENATE

REPORT
101-341

AUTHORIZING THE ESTABLISHMENT OF A SMITHSONIAN INSTITUTION SENIOR SERVICE, AND FOR OTHER PURPOSES

JUNE 27 (legislative day, JUNE 11), 1990.—Ordered to be printed

Mr. FORD, from the Committee on Rules and Administration, submitted the following

REPORT

[To accompany S. 2539]

The Committee on Rules and Administration, having considered S. 2539, a bill to authorize the establishment of a Senior Executive Service of the Smithsonian Institution, and for other purposes, reports favorably thereon with an amendment in the nature of a substitute, and recommends that the bill as amended do pass.

PURPOSE OF THE BILL

The purpose of S. 2539, as amended, is to authorize the Secretary of the Smithsonian Institution, with the approval of the Board of Regents, to establish, make appointments, and promulgate rules for a Smithsonian Institution Senior Service ("SISS"). Such rules would be as consistent as practicable with the provisions of title 5, United States Code, relating to the Senior Executive Service; would permit the inclusion of any position in the Institution which is classifiable at GS-16, 17, or 18 of the General Schedule, Level IV and V of the Executive Schedule, or an equivalent civil service position; would provide rates of pay consistent with sections 5382 and 5383 of Title 5, United States Code; and would permit the Board of Regents to award ranks to members of the SISS consistent with section 4507 of Title 5. The bill, as amended, also prohibits a reduction in the rate of basic pay to an employee who is currently serving in a position to be covered by the SISS as long as there is no break in service.

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In addition, S. 2539, as amended, authorizes the Director of the National Gallery of Art to establish a National Gallery of Art Senior Service, and the Director of the Woodrow Wilson International Center for Scholars to establish a Woodrow Wilson International Center for Scholars Senior Service, with the approval of their respective Boards of Trustees, and governed by the same rules as set forth above for the Smithsonian Institution.

BACKGROUND

The Board of Regents of the Smithsonian Institution, at its meeting on January 29, 1990, approved a proposal to seek authority to create a Senior Executive Service for the Institution. The Smithsonian was excluded from coverage when the Senior Executive Service ("SES") was established; it is not an executive agency and its staff does not have Executive Branch management responsibilities. The level of responsibility of the Institution's supergrade positions are equivalent to those in the SES, however the pay cap is currently $5,400 less and on January 1, 1991, the cap will become $11,016 less than for members of the SES. This inequity in senior Federal salaries has created problems of morale among current employees of the Smithsonian and difficulty in recruiting quality candidates.

Senator Garn introduced (for himself and Senator Moynihan—both members of the Board of Regents of the Smithsonian Institution) S. 2539 to authorize the establishment of a Senior Executive Service of the Smithsonian Institution. The bill was referred to the Committee on Rules and Administration on April 27, 1990. By letter of June 11, 1990 to Chairman Ford, Robert McC. Adams, Secretary of the Smithsonian Insitution, submitted an amendment in the nature of a substitute for S. 2539 for consideration by the Committee.

S. 2539, as amended, reflects the Regents' determination that a separate, but comparable, Smithsonian Institution Senior Service would be the most appropriate means of rectifying the situation. The Smithsonian's senior staff includes not only executives but also scientists and curators and other scholars who do not necessarily manage other employees. The SISS would meet the unique needs of the Smithsonian but would be administered in a manner that is consistent with the principles of the SES.

The substitute amendment to S. 2539 also provides authority for comparable senior service systems at the National Gallery of Art and the Woodrow Wilson International Center for Scholars, independently administered entities within the Smithsonian Institution.

Included below are the June 11, 1990 letter from the Secretary of the Smithsonian Institution to Chairman Ford, a letter of support from Senator Garn, and letters received from the respective Directors of the National Gallery of Art and the Woodrow Wilson Center.

SMITHSONIAN INSTITUTION,
Washington, DC, June 11, 1990.

Hon. WENDELL H. FORD,
Chairman, Committee on Rules and Administration, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: I would like to take this opportunity to comment on S. 2539, a bill to "authorize the establishment of a Senior Executive Service of the Smithsonian Institution, and for other purposes." The bill was introduced on April 27, 1990 by Senator Garn for himself and Senator Moynihan who are members of the Board of Regents of the Smithsonian Institution.

At a meeting of the Board on January 29, 1990 a proposal similar to that embodied in S. 2539 was endorsed by the Regents as part of an overall effort to provide greater flexibility in the recruitment and management of senior personnel and more equitable and attractive salary scales. A proposed amendment in the nature of a substitute for the text of S. 2539 is enclosed for the consideration of the Committee. It reflects the concept the Regents approved in January to establish a senior service system that includes not only executives, but also the senior scientists and other scholars who are essential to fulfilling the Institution's mandate for "the increase and diffusion of knowledge." The proposed amendment also provides authority for comparable senior service systems at the National Gallery of Art and the Woodrow Wilson International Center for Scholars, independently administered entities within the Smithsonian Institution.

When the Senior Executive Service (SES) was established, supergrade positions in the Smithsonian and in the independent organizations were excluded from its coverage because, among other reasons, the Institution is not an executive agency and does not carry out regulatory or service functions of the Executive Branch. Although the exclusion was appropriate, it has had serious consequences for the Institution and individual members of its staff.

The supergrade system (Executive Assignment System) and the Senior Executive Service are systems designed for an executive corps. While the Smithsonian's senior staff includes executives, it also includes scientists and curators who manage individual research projects, other scholars, and collections of material held in trust for the Nation, without necessarily having the broad spans of control of people and other resources that are the hallmarks of conventional management systems.

The Executive Assignment System and the Senior Executive Service do not have administrative procedures or staff qualification and selection criteria appropriate for an Institution with a mandate such as the Smithsonian's, nor do they provide the flexibility to develop alternate procedures and criteria. As an example, the supergrade system precludes recruitment from an international universe because it excludes non-citizens from competitive service employment. As an international research organization, the Smithsonian should not be limited to recruiting solely from among United States citizens; the Institution needs the flexibility to employ the most qualified people available, regardless of citizenship.

Furthermore, while the Smithsonian is able to project with reasonable accuracy its needs for administrative and executive supergrade slots, that is more difficult to do for individual scientists and scholars whose career development is related not to executive responsibilities inherent in the position occupied, but to professional accomplishments and reputation which are reviewed periodically by panels of their peers. These review cycles do not necessarily coincide with the biennial allocation of supergrade slots by the Office of Personnel Management.

Finally, the supergrade system is burdened by a cap on pay equivalent to Level V of the Executive Schedule. As a result, Smithsonian supergrade staff, who bear responsibilities equal to those of members of the SES, are limited to a salary maximum set currently at $78,200, compared to the SES maximum of $83,600, a difference of $5,400. The lower pay places the Institution at a recruitment and retention disadvantage, a disadvantage that will become more pronounced in January, 1991 when pay provisions of the Ethics Reform Act of 1989 (P.L. 191-194) take effect and the disparity rises to more than $11,000.

The Smithsonian does not seek coverage under the SES because it is a trust instrumentality of the United States and accountable to its independent Board of Regents. The Regents have determined that a separate, but comparable, Smithsonian Institution Senior Service (SISS), designed to meet the special needs of the Institution, is the most appropriate means of rectifying the problems outlined above. Such a service would be analogous to that of the General Accounting Office for which Congress has provided a statutory senior staff system independent of the civil service system. However, in implementing the SISS the Institution would expect to consult with the Office of Personnel Management to ensure that the SISS is administered in a manner that is consistent with the principles of the SES and responsive to the unique needs of the Smithsonian.

In addition to meeting executive and scholarly needs, the SISS will enable the Institution to respond more effectively to equal employment opportunities and affirmative action recruitment. The SISS will be a merit employment system, but not a mandatory competitive system. Recruitment will be either competitive or noncompetitive, whichever will produce the best recruitment results for the Institution. Under a noncompetitive process, when a qualified candidate is identified for a senior position, the Institution will be able to move quickly in offering the position to the candidate. Under a competitive system, several weeks or months may pass before the process is completed. The SISS will provide the flexibility to use either process to produce the kind and quality of candidates needed.

To assure a diverse and representative staff, all proposed appointments and promotions to the Smithsonian Institution Senior Service will be reviewed by the Secretary. Rank in the SISS, like that in the SES, will be vested in the individual and not in the position.

However, positions to which SISS appointments can be made will be reviewed initially by the Institution's Office of Human Resources to ensure that they exceed grade 15 of the General Sched-

ule and that the Smithsonian does not become top-heavy with SISS members. Further reviews and appropriate recommendations to the Secretary will be among the tasks of a Senior Service Board that will be established. Ultimately, the Secretary's determination, the Smithsonian's organizational requirements, and budget limitations will control the number of SISS members capable of support by the Institution.

If the proposed amendment is adopted and S. 2539 is enacted, it is anticipated that all Smithsonian employees (approximately 75) currently in the sugergrade ranks will convert to it. The cost of converting eligible current employees to the SISS is estimated at $2,000,000 more than the supergrade cost for Fiscal Year 1991. The Smithsonian will arrange for the additional funds by reprogramming or other appropriate action. If employees choose not to convert, they will retain their existing civil service competitive or excepted status and supergrade position, and the costs will be reduced accordingly.

We would be grateful for your early consideration of S. 2539 and of the amendment that we have proposed. A section-by-section analysis of the first title of the proposed amendment is enclosed. Inasmuch as titles II and III, pertaining to the Gallery and the Wilson Center contain virtually the same language, the same principles would apply.

The Office of Management and Budget advises that it has no objection to the submission of this report from the standpoint of the Administration's program.

Sincerely,

ROBERT MCC. ADAMS,
Secretary.

U.S. SENATE,
Washington, DC, June 11, 1990.

Hon. WENDELL FORD,
Chairman, Committee on Rules and Administration, U.S. Senate, Washington, DC.

DEAR WENDELL: I ask that the Senate Rules Committee consider S. 2359, a bill to establish a Smithsonian Institution Senior Service (SISS), at its mark-up scheduled for June 13, 1990.

The SISS would provide a comparable program for the Smithsonian as the Senior Executive Service (SES) is for other federal agencies. The Smithsonian is currently excluded from the Senior Executive Service. The proposed Smithsonian Senior Service would reflect many of the key characteristics of the Senior Executive Service, including a pay cap set at executive level IV, greater flexibility in the recruitment and management of Senior Personnel, and more equitable and attractive salary scales.

Presently, salaries for Smithsonian executives are well below the salaries of those who participate in the SES system. Therefore, the Institution is not attracting many qualified personnel to fill its executive positions. Unless the Smithsonian Institution Senior Service proposal is enacted and implemented, the salary gap between the Institution's supergrade personnel and people with comparable responsibilities elsewhere in the Federal system will continue to

widen. This pay disparity must be corrected in order for the Smithsonian to maintain an educated and quality staff.

Continued and increased inequity in senior Federal salaries will pose extraordinary problems of morale among current Smithsonian employees, and place the Institution at a severe disadvantage as it seeks to recruit scholarly and administrative talent to represent more fully the cultural and ethnic diversity of the Nation. The proposal to establish a Smithsonian Institution Senior Service, consistent with the principals and objectives of the SES, is justified and deserved.

I am hopeful that the Senate Rules Committee will positively consider and favorably report S. 2359.

Sincerely,

JAKE GARN.

NATIONAL GALLERY OF ART,
Washington, DC, June 11, 1990.

Hon. WENDELL H. FORD,
Chairman, Committee on Rules and Administration, Washington, DC.

DEAR MR. CHAIRMAN: I write with reference to the proposed legislation to establish a Smithsonian Senior Service to request that the National Gallery of Art, an independently-administered bureau of the Smithsonian with virtually the same needs and problems as the Institution in this area, be provided a parallel senior service authority under the same terms and conditions.

The National Gallery of Art seeks authority to establish a National Gallery of Art Senior Service (NGASS) in order to provide comparability for appropriate members of its staff with the Senior Executive Service (SES) from which the Gallery is excluded. The proposed NGASS would reflect many of the key characteristics of the Senior Executive Service, including a pay cap set at that payable for Executive Level IV, greater flexibility in the recruitment and management of senior personnel, and more equitable and attractive salary scales. In implementing this proposal the National Gallery of Art would consult with the Office of Personnel Management to ensure that the NGASS is administered in a manner that is consistent with the principles of the SES and responsive to the unique needs of the National Gallery of Art.

The Gallery has had severe difficulty in attracting quality candidates to Federal employment. Our recruitment efforts to attract the best available talent are frequently stymied by the salary cap. This has been evident in our effort to fill the positions of Curator of Education and Chief of Administrative Operations. Moreover, in the past few years, skilled senior administrators and scholars have been lost to universities and other museums because of the comparatively lower level of Federal salaries and the inflexibility of management operations. We are in imminent danger of losing more of our experienced and highly valued professional staff who are frustrated by the limitations of the present system.

The supergrade system (Executive Assignment System) and the Senior Executive Service are systems designed for an executive corps. While the Gallery's senior staff includes executives, it also includes curators and other scholars who are responsible for educa-

tional and other programs involving some 1,000 staff members; 77,000 works of art held in trust for the Nation; an operating budget approaching $55 million; and 1,200,000 square feet in both the East and West Buildings of the National Gallery of Art; and in fiscal year 1989, approximately 6,000,000 visitors.

If the Gallery is provided with senior service authority, it is anticipated that such a system initially would consist of the four Gallery employees currently in the supergrade ranks. The estimated cost of their conversion above that for supergrade compensation for fiscal year 1991 is $55,000. The National Gallery's budget for personnel compensation and benefits in that fiscal year is $29.5 million.

The Office of Management and Budget advises that it has no objection to the submission of this report from the standpoint of the Administration's program.

Sincerely,

ROGER MANDLE,
Acting Director.

THE WOODROW WILSON CENTER,
Washington, DC, June 11, 1990.

Hon. WENDELL H. FORD,
Chairman, Committee on Rules and Administration, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: I understand that the Committee soon will consider legislation to provide authority for a Smithsonian Institution Senior Service. As director of the Woodrow Wilson International Center for Scholars, an independent bureau established within the Smithsonian, I am writing to request that comparable authority be provided to the Center.

Although the scale of the Center is very much smaller than that of the Smithsonian, its requirements for equity in salary levels and for flexibility in the recruitment, retention, and management of senior level personnel are identical. At present the Center has only one Federal employee at this level. His conversion to a new system, if it were enacted, would, it is estimated, cost approximately $15,000.

We would expect to consult with the Office of Personnel Management with respect to implementation of senior service authority if enacted. In addition, we would work closely with the Smithsonian in the development of guidelines and protections for those who will be appointed to it.

I would be grateful, indeed, for your consideration of this request for appropriate authority. The Office of Management and Budget advises that it has no objection to the submission of this report from the standpoint of the Administration's program.

Sincerely,

CHARLES BLITZER,
Director.

COMMITTEE ACTION

On June 13, 1990, the Committee on Rules and Administration held a markup session on S. 2539. By unanimous consent the Com-

mittee adopted the amendment in the nature of a substitute offered by Chairman Ford and voted to report the bill favorably, as amended.

COMMITTEE ROLLCALL VOTE

In compliance with paragraph 7 (b) and (c) of rule XXVI of the Standing Rules of the Senate, the record of the rollcall vote in the Committee on Rules and Administration during its consideration of S. 2539, as amended, was:

YEAS—9 NAYS—0

Mr. Pell
Mr. DeConcini
Mr. Moynihan
Mr. Stevens
Mr. Hatfield
Mr. Dole
Mr. Garn
Mr. McConnell
Mr. Ford

The Chairman presented the proxies of Mr. Byrd, Mr. Inouye, Mr. Gore, and Mr. Dodd in favor of the bill as amended.

COST ESTIMATE

In compliance with paragraph 11(a) of rule XXVI of the Standing Rules of the Senate, the estimate of costs of this measure prepared by the Congressional Budget Office pursuant to section 403 of the Congressional Budget Act, is as follows:

CONGRESSIONAL BUDGET OFFICE—COST ESTIMATE

1. Bill number: S. 2539.
2. Bill title: Smithsonian Institution Senior Service Act of 1990.
3. Bill status: As ordered reported by the Senate Committee on Rules and Administration on June 13, 1990.
4. Bill purpose: This bill authorizes the establishment of a Senior Service of the Smithsonian Institution, and for other purposes.
5. Estimated cost to the Federal Government:

[By fiscal years, in millions of dollars]

	1991	1992	1993	1994	1995
Authorization level	1.9	2.6	2.7	2.8	2.9
Estimated total outlays	1.7	2.5	2.7	2.8	2.9

The costs of this bill fall in Function 500.

Basis of estimate: S. 2539 would establish a Senior Service at the Smithsonian Institution, the National Gallery of Art, and Woodrow Wilson International Center for Scholars. The cost estimate is based on information received from the staff of these three agencies and assumes a January 1, 1991 implementation date. S. 2539 requires that the rules of the Senior Service be as consistent as practicable with the Senior Executive Service. Pay of an estimated

80 employees would be increased as a result of the conversion to the Senior Service by $1.9 million in 1991. The Smithsonian Institution estimates a conversion cost of $1.8 million for 75 employees, with the remaining cost of $0.1 million coming from the cost of conversion in the other two agencies.

The estimate assumes that the executive pay raise approved for January 1, 1991 in P.L. 101–194, the Government Ethics Reform Act of 1989, would affect the salaries of these people. While CBO cannot predict precisely how the President will apply this increase to the Senior Service, our estimate assumes that the Senior Service pay scales will increase by 21 percent in 1991 because of this act. Our estimate also assumes that Senior Service pay will increase by an additional 3.6 percent for the government-wide pay raise assumed in the budget resolution to be effective January 1, 1991. Estimated total outlays assume full appropriation of authorized levels and reflect the current salary and spending patterns for each agency.

6. Estimated cost to State and local government: None.

7. Estimate comparison: None.

8. Previous CBO estimates: CBO provided an estimate on June 21, 1990. That estimate incorrectly referred to the Senior Service as the Senior Executive Service. The estimated cost to the federal government was identical to that shown in this estimate.

9. Estimate prepared by: Diane Celuch.

10. Estimate approved by: C.G. Nuckols (for James L. Blum, Assistant Director for Budget Analysis).

REGULATORY IMPACT EVALUATION

In accordance with paragraph 11(b) of rule XXVI of the Standing Rules of the Senate, the Committee does not consider that passage of S. 2539 as amended would have any regulatory impact.

CHANGES IN EXISTING LAW

In compliance with paragraph 12 of rule XXVI of the Standing Rules of the Senate, the Committee on Rules and Administration notes that this bill makes no change in existing law.

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